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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,808	03/15/2004	Fernando Gonzalez	04-5471	1619

39820 7590 12/17/2004
EDWARD M. LIVINGSTON, PA
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NAPLES, FL 34103

EXAMINER

ARK, DARREN W

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/800,808

Applicant(s)

GONZALEZ, FERNANDO

Examiner

Darren W. Ark

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 12-22 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by GB Pat. No. 1216941 to Morgan.

In regard to claims 12 and 13, Morgan discloses feeding a leader (4) attached to a hook (11, 12) through at least one window (3, 6), securing the hook (11), and placing a cap (15) on at least one end of the holder.

In regard to claims 14-22, Morgan a hollow cylindrically shaped holder (1, 13, 14) with at least one window (under 2) and hole (one of 3, 6) and being made of PVC pipe (see line 41); at least one end of the holder is frayed (via 3, 6) at least one end is corked (blocked via 9, 10); a cap (15).

3. Claims 12-22 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Perlman et al. 4,977,700.

In regard to claims 12 and 13, Perlman discloses a holder (10) having at least two ends (see Fig. 1); the holder having at least one hole (21) and at least one window (20); and the method steps of feeding a leader (15) attached to a hook (14) through the at least one window (see Fig. 3B), securing the hook (14) onto the holder (at 21), and

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placing a removable cap (23; cap not particularly claimed) on at least one end of the holder.

In regard to claims 14-22, Perlman discloses a holder (10) made of PVC pipe (see col. 2, lines 67, 68) and having at least two ends (see Fig. 1); the holder having at least one hole (21) and at least one window (20); at least one of the ends being frayed (21, 22); at least one of the ends being corked (blocked via 24); at least one of the ends has removable cap (23; cap is not being particularly claimed).

4. Claims 12-14, 17, 19-22 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Woodhead 2,629,200.

In regard to claims 12 and 13, Woodhead discloses a hollow cylindrically shaped holder (41) with two ends (see Fig. 6); the holder having at least one hole (48) and window (openings in Fig. 6 the same as openings 7 in Fig. 1); the steps of feeding a leader (30) attached to a hook (29) through the at least one window (see Figs. 1, 6); securing the hook (29), and placing a removable cap (43) on at least one end of the holder.

In regard to claims 14, 17, and 19-22, Woodhead discloses a hollow cylindrically shaped holder (41) with at least one window (see opening in Fig. 6 which is same as opening 7 in Fig. 1); at least one hole (34); a cap (43); at least one end being frayed (at 47, 48).

In regard to claim 5, the first and second ends are frayed (via 13, 48).

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In regard to claims 12 and 13, Woodhead discloses feeding a leader through the at least one window (7 as shown in Fig. 1 or 6) and securing the hook to the holder (via 13 or 48) and placing a cap on one end (24-26 or 43).

5. Claims 14, 16-22 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Crosby 5,533,297.

Crosby discloses a hollow cylindrically shaped holder (70) with at least one window (86 or 94); the first end being frayed (via 86 or 94) and the second end being corked (via 40 or 98); has at least one hole (the other of 86 or 94 or also 84, 96); a cap (40 or 98).

6. Claims 12-14, 16-22 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Alotta 3,713,244.

In regard to claims 12 and 13, Alotta disclose the steps of feeding a leader (26) attached to a hook (32) through the at least one window (under 46 or in 22) and securing the hook onto the holder (at 34); placing a removable cap (14) on at least one end of the holder.

In regard to claims 14 and 16-22, Alotta discloses a hollow cylindrically shaped holder (8, 10) with at least one window (under 46 or 22); at least one hole (34); a cap (14); at least one of the ends being frayed (via 34).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Woodhead 2,629,200.

Woodhead discloses the claimed invention except for the device made of PVC. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the device out of PVC, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice, and because PVC is a readily available, inexpensive material that is durable and can be molded into many different configurations and sizes. *In re Leshin*, 125 USPQ 416.

9. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crosby 5,533,297.

Crosby discloses the claimed invention except for the device made of PVC. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the device out of PVC, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice, and because PVC is a

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readily available, inexpensive material that is durable and can be molded into many different configurations and sizes. *In re Leshin*, 125 USPQ 416.

10. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alotta 3,713,244.

Alotta discloses the claimed invention except for the device made of PVC. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the device out of PVC, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice, and because PVC is a readily available, inexpensive material that is durable and can be molded into many different configurations and sizes. *In re Leshin*, 125 USPQ 416.

11. Claims 13, 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perlman et al. 4,977,700 in view of Woodhead 2,629,200.

Alternatively, Perlman et al. does not disclose at least one end with a cap. Woodhead discloses at least one end with a cap (24-26 or 43). It would have been obvious to a person of ordinary skill in the art to employ the cap of Woodhead in the device of Perlman et al. in order to provide means to prevent the hooks from escaping from the open ends of each of the slots in which they are to be retained.

Response to Arguments

12. Applicant's arguments filed 11/9/2004 have been fully considered but they are not persuasive.

In regard to applicant's argument that "Morgan patent discloses 'slots or incisions'...", the Examiner contends that the at least one window or hole has not been particularly recited with any detail not disclosed by Morgan.

In regard to applicant's argument that "Perlman... does not teach... at least one window or at least one hole...", the Examiner contends that the applicant has not claimed the at least one window or hole in such a manner that overcomes the Perlman patent.

In regard to applicant's argument that "Woodhead... discloses 'openings'... 'fish-hook receiving slots'... does not disclose the presence of holes...", the Examiner contends that the applicant has not claimed the at least one hole in such a manner that overcomes the Woodhead patent.

In regard to applicant's argument that "Crosby... As these are notches, rather than windows... V-notches... clearly different... than Applicant's frayed ends...", the Examiner contends that the applicant has not claimed the at least one window or frayed ends in such a manner that overcomes the Crosby patent.

In regard to applicant's argument that "Allotta... does not teach... at least one window or at least one hole...", the Examiner contends that the applicant has not claimed the at least one window or hole in such a manner that overcomes the Allotta patent.

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In regard to applicant's argument regarding claim 5, the Examiner would like to remind applicant that claim 5 was canceled with the present amendment and that any arguments to this claim are moot.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

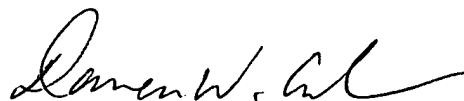
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (703) 305-3733. The examiner can normally be reached on M-Th, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Darren W. Ark
Primary Examiner
Art Unit 3643

DWA